

ARKANSAS SUPREME COURT

No. CR 08-104

TERRY B. POTTS
Petitioner

v.

STATE OF ARKANSAS
Respondent

Opinion Delivered March 6, 2008

PRO SE MOTION FOR BELATED
APPEAL [CIRCUIT COURT OF
PULASKI COUNTY, CR 2005-2183,
HON. JOHN W. LANGSTON, JUDGE]

MOTION DENIED.

PER CURIAM

Now before us is petitioner Terry B. Pott's pro se motion for belated appeal pursuant to Ark. R. App. P.–Crim. 2(e) seeking to proceed with the appeal of the trial court's order denying his petition pursuant to Ark. R. Crim. P. 37.1. We need not consider petitioner's reasons for failing to perfect the appeal because it is clear that petitioner could not prevail on appeal. *Johnson v. State*, 362 Ark. 453, 208 S.W.3d 783 (2005) (per curiam).

If an appeal was taken from the judgment of conviction, a petition under Rule 37.1 must be filed in the trial court within sixty days of the date the mandate was issued by the appellate court. Ark. R. Crim. P. 37.2(c). Here, the mandate was issued by the Arkansas Court of Appeals on April 10, 2007, and petitioner's Rule 37.1 petition was filed on July 17, 2007, which was ninety-eight days after the mandate was issued. Time limitations imposed in Rule 37.2(c) are jurisdictional in nature, and if they are not met, a trial court lacks jurisdiction to consider a Rule 37.1 petition. *Maxwell v. State*, 298 Ark. 329, 767 S.W.2d 303 (1989).

Motion denied.